

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MAINE

3
4 UNITED STATES OF AMERICA,

CRIMINAL ACTION

5 Plaintiff

Docket No: 2:15-00069-JDL-1

6
7 -versus-

8 KOURTNEY WILLIAMS,

9 Defendant

10
11 Transcript of Proceedings

12 Pursuant to notice, the above-entitled matter came on for
13 **Sentencing** held before **THE HONORABLE JON D. LEVY**, United
14 States District Court Judge, in the United States District
15 Court, Edward T. Gignoux Courthouse, 156 Federal Street,
16 Portland, Maine, on the 16th day of June 2021 at 2:19 p.m. as
17 follows:

18
19 Appearances:

20 For the Government: Darcie N. McElwee, Esquire
21 Assistant United States Attorney

22 For the Defendant: Jeffrey W. Langholtz, Esquire

23 Also Present: Heather Belanger, U.S. Probation

24
25 Lori D. Dunbar, RMR, CRR
Official Court Reporter

(Prepared from manual stenography and
computer aided transcription)

1 (Open court. Defendant present.)

2 THE COURT: Good afternoon. We are now convening a
3 sentencing hearing in the case of United States versus
4 Kourtney Williams, Docket 15-CR-69. Counsel, would you please
5 note your appearances for the record.

6 MS. MCELWEE: Good afternoon, Your Honor. Darcie
7 McElwee, Assistant United States Attorney, for the United
8 States.

9 THE COURT: Good afternoon.

10 MR. LANGHOLTZ: Good afternoon, Your Honor. Jeff
11 Langholtz for Kourtney Williams.

12 THE COURT: Good afternoon. The record will reflect
13 also that Probation Officer Heather Belanger is present as
14 well, and of course Mr. Williams is here as well.

15 Counsel, with respect to masks, if you are vaccinated
16 you are welcome to take your mask off when you're addressing
17 the Court. And that's true for Mr. Williams as well, if he is
18 vaccinated. Mr. Langholtz, do you know whether Mr. Williams
19 is vaccinated?

20 MR. LANGHOLTZ: I'm not sure.

21 THE COURT: Would you ask him, please?

22 MR. LANGHOLTZ: Mr. Williams, are you vaccinated?
23 First shot.

24 THE COURT: All right. So, Mr. Williams, I'm going
25 to ask you to maintain your mask on at all times.

1 And, Attorney McElwee, has the Government provided
2 notice to any victims entitled to notice under the law?

3 MS. MCELWEE: We have, Your Honor.

4 THE COURT: Thank you.

5 Mr. Williams, this is your sentencing hearing. Of
6 course, you've had a previous sentencing hearing, but this
7 case is back after having been considered by the First Circuit
8 Court of Appeals. So the overall purpose of today's hearing
9 is for me to sentence you based upon your conviction. I'm
10 going to hear from the attorneys and I'll hear from you as
11 well if you wish to speak.

12 I'm now going to be asking you and your attorney a
13 series of questions. I want to be sure that you have read and
14 understand the revised presentence report in this case. I
15 also want to be sure that there's nothing that interferes with
16 your ability to understand what's taking place here in court
17 today, and overall I want to make sure that you understand the
18 sentence that I arrive at and the reasons for it.

19 Now, if you don't understand a question that I ask, tell
20 me that and I'll rephrase it. And if you wish to speak with
21 Mr. Langholtz before responding to a question, let me know
22 that and I'll give you a chance to do so. Do you understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. Mr. Langholtz, would you
25 take the microphone and bring it over to Mr. Williams' side of

1 the Plexiglas partition? And, Mr. Williams, you can remain
2 seated at this point in the hearing. Why don't you pull that
3 microphone down a bit so that it will be more directly pointed
4 at you. Thank you. I didn't hear your answer to my last
5 question. Did you understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Thank you. Mr. Williams, are you
8 currently taking any medications?

9 THE DEFENDANT: No.

10 THE COURT: Have you had any other drugs or alcohol
11 in the past 24 hours?

12 THE DEFENDANT: Nope.

13 THE COURT: Is there anything at all that might
14 interfere with your ability to understand what's taking place
15 in court today?

16 THE DEFENDANT: No, sir.

17 THE COURT: Are you thinking clearly this afternoon?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you authorize Attorney Langholtz to
20 act and speak on your behalf?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Mr. Langholtz, did you review with your
23 client the most recent version and the prior versions of the
24 revised presentence report in this case?

25 MR. LANGHOLTZ: I did, Your Honor.

1 THE COURT: Are you satisfied that he understands
2 the reports?

3 MR. LANGHOLTZ: Yes, Your Honor.

4 THE COURT: Mr. Williams, did you receive a copy of
5 the most recent revised presentence report?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And have you reviewed that report as
8 well as all others with your lawyer in this case?

9 THE DEFENDANT: Yes, sir, yeah.

10 THE COURT: Are you satisfied that you understand
11 them?

12 THE DEFENDANT: Yeah.

13 THE COURT: All right. Mr. Langholtz, at this time
14 I'd like to take up objections that you have to the report
15 itself. I note that in your memorandum you argue that your
16 client should not receive three criminal history points for
17 the offense in Paragraph 37 because the sentence for that
18 offense was imposed on the same day as the offense in
19 Paragraph 36 and arose from the same incident with no
20 intervening arrest.

21 With respect to that objection, before you speak further
22 on it, in the hopes of perhaps shortening our discussion about
23 it, I agree with that objection. I'm going to hear from the
24 Government if it disagrees, but it seems to me the objection's
25 correct but that the change should be that he receives no

1 points for Paragraph 36 and three points for Paragraph 37.
2 Ms. Belanger explained to me the reason why the allocation
3 should be made to Paragraph 37; I frankly forget it at the
4 moment. Ms. Belanger, could you remind me, please?

5 PROBATION OFFICER: Thirty-seven is the
6 guidelines -- there's always a theme of the most significant
7 penalty is what would be used. And for these -- this
8 particular situation between Paragraph 36 and 37, 37, assault
9 with a dangerous weapon in Massachusetts is considered a crime
10 of violence, which would carry -- which would make it a
11 predicate offense, causing the most serious penalty under the
12 gun guideline at 2K2.1.

13 THE COURT: Thank you.

14 Mr. Langholtz, do you wish to address this?

15 MR. LANGHOLTZ: Yes, Your Honor. We've argued
16 before in great detail some of the objections we've had
17 reference these two paragraphs. The Court concurs or accepts
18 one of the objections, which would be it should only be
19 counted once, three points for both. I believe we had argued
20 strenuously and briefed the issue about whether the assault
21 with a dangerous weapon should be considered as -- as a base
22 level enhancement, bringing it from 22 to 26. That has been
23 objected to, briefed, argued, and we maintain that part of the
24 objection, Your Honor.

25 THE COURT: All right. That portion -- Attorney

1 McElwee, do you want to respond before I rule?

2 MS. MCELWEE: Those are two -- in my mind those are
3 two different objections. So with regard to the first
4 objection, Paragraphs 36 and 37, I agree with Ms. Belanger and
5 the Court that it should receive zero points for 36 and three
6 points for 37, because it's clear that those two are related,
7 the very same incident, and there was a typographical error in
8 the first -- the third revised PSR.

9 THE COURT: So with respect to what we're now
10 referring to as the first objection, that objection is
11 sustained. The defendant will not receive three points as
12 indicated in Paragraph 36, but the three points as indicated
13 in Paragraph 37 will stand.

14 Now, with respect to the related objection that you
15 made, Mr. Langholtz, is there anything further you wanted to
16 add to that point?

17 MR. LANGHOLTZ: Nothing other than what has already
18 been briefed and discussed and argued, nothing additional,
19 thank you.

20 THE COURT: All right. Attorney McElwee?

21 MS. MCELWEE: I don't have anything additional other
22 than what I cited in -- on Page 4 and 5 of my sentencing memo,
23 Judge, and that is that we maintain that the conviction in
24 Paragraph 36, that is assault -- I'm sorry, let me just
25 refresh my memory. Oh, yes, yes. I -- I argue here, Judge,

1 that the use of a dangerous weapon is what makes it a crime of
2 violence, and that was a ruling that the Court previously made
3 at the first sentencing. And so we maintain that he should be
4 a 26, not a 22.

5 THE COURT: I have considered the parties' arguments
6 which they are reasserting and I previously ruled on in this
7 case, and I'm standing by my earlier ruling and so the
8 objection is denied.

9 Mr. Langholtz, do you have other objections?

10 MR. LANGHOLTZ: Your Honor, I am hopeful that the
11 Court adopts my calculations, which would be a BOL of 22, plus
12 two points, plus four points, for a total of 28. And the
13 objections that have been provided to probation, one objection
14 has been agreed to and they changed the criminal history;
15 however, they have rejected the other objections that I've
16 made and we stand by them.

17 THE COURT: Well, so that I'm clear and the record
18 is clear as well, let's be more specific in identifying what
19 objections you still stand by. Your objection to
20 Paragraph 38?

21 MR. LANGHOLTZ: We objected to Paragraph 7, 8, 13,
22 14, 7, and 18. The paragraph -- I'll address Paragraph 38
23 because the Court brings that up right now.

24 THE COURT: Mr. Langholtz, let me step back a
25 moment. I don't have the -- I don't have the paragraph

1 numbers of the report memorized, and so you need to describe
2 to me the substance of your objection.

3 MR. LANGHOLTZ: Thank you, Your Honor. With respect
4 to COF -- excuse me, Your Honor, let me just get my document
5 here.

6 THE COURT: Would it be helpful if we referred to
7 the objections as outlined at ECF No. 470, which is the
8 addendum to the presentence report dated April 9th of 2021?
9 We have just addressed what was labeled as Objection 1, and
10 there are two others then listed. Objection 2 is as to
11 Paragraphs 38, 40, and 41.

12 MR. LANGHOLTZ: Yes, Your Honor, thank you. With
13 respect to 38, the CWOFF should not be counted. The argument
14 in the -- in the memorandum outlines the -- Mr. Williams'
15 position. Basically the procedures that were followed by the
16 Court below are not consistent with the procedures that were
17 outlined in Morillo. The -- basically the record that was
18 provided to the Court is unclear as far as whether the
19 procedures were properly followed. The -- the Court in
20 Morillo outlines exactly what those procedures should be based
21 on the documents that are presented to the Court. With
22 respect to the docket numbers that were related to the CWOFF
23 those procedures were not followed completely and, therefore,
24 those matters should not be considered, Your Honor.

25 THE COURT: Thank you. Attorney McElwee?

1 MS. MCELWEE: Your Honor, as we responded in our
2 sentencing memo, based on the First Circuit's ruling in U.S.
3 versus Dobovsky and Reyes, R-E-Y-E-S, the First Circuit has
4 held that Massachusetts continued without a finding
5 dispositions are scored criminal history points when
6 accompanied by admission to sufficient facts. And the record
7 in this case, as described by probation, is that there were --
8 it was accompanied by an admission to sufficient facts. And
9 so under both Massachusetts law and federal law it appears
10 that these two paragraphs should both receive points, the
11 first being because he had the CWOFF and the second being
12 because he was under a criminal justice sentence. That's why
13 they're related.

14 MR. LANGHOLTZ: I'd like to respond to that, Your
15 Honor. With respect to Reyes, the problem with Reyes is I
16 don't think the First Circuit addressed this issue squarely.
17 Basically they said that it was side skirting. They said the
18 issue wasn't addressed below in the district court; therefore,
19 the plain error standard would apply rather than abuse of
20 discretion. And because of the assumed use of plain error,
21 the case would not rise to that level, and they side skirted
22 the issue about whether the lower standard would be used or
23 could be used. They skirted the issue of ruling on that
24 according to the lower standard, because that issue was not
25 brought up in the district court. Here we are bringing it up

1 in the district court and preserving this based on the lower
2 standard, Your Honor.

3 THE COURT: Thank you. I'm going to defer ruling on
4 that objection. I want to move on to the next one, that's
5 objection three. Just one moment, please. Please go ahead.

6 MR. LANGHOLTZ: Thank you, Your Honor. The issue
7 relative to Raymond was brought up below in quite a bit of
8 detail; cases were cited. The law has not changed
9 significantly with respect to that, and we abide by the
10 briefings and the arguments that we've made previously. But
11 in sum, the case law supports our position with respect to
12 that matter. Raymond -- State v. Raymond supports our
13 position. Mulkern does also. Basically the issue has been
14 briefed. It's all -- it's been brought up again for the same
15 reasons.

16 And additionally, Your Honor, this case was -- this
17 issue was heavily litigated prior before this Court. And one
18 other additional point I'd like to make also now is that
19 Mr. Williams entered an Alford plea also, which I'm not sure
20 was addressed the first time around. But I think what the
21 problem is is I think the Court previously when it ruled
22 against our position went too far with looking at a number of
23 documents that it probably shouldn't based on indivisibility
24 and based on I think going further out in the Shepard area,
25 going into documents that probably shouldn't be considered the

1 way the Court did.

2 So based on those reasons, based on what's already been
3 briefed, what -- the additional arguments making -- that we're
4 making now, that matter, that case, should not be considered a
5 crime of violence for purposes of predicate offenses.

6 THE COURT: Thank you. Attorney McElwee?

7 MS. MCELWEE: So, Judge, I thought this was the
8 decision that you just made a few minutes ago that you said
9 you were not going to revisit, and so I'm happy to argue it
10 again but I don't want to waste the Court's time. I -- we
11 obviously litigated that heavily, and the Court concluded that
12 it was a crime of violence for both purposes of 2K2.1 and
13 career offender. We feel strongly that that use of a
14 dangerous weapon is part of the charge and that the Court made
15 a proper ruling at the time.

16 THE COURT: Thank you. On that point I'm going to
17 stand by my earlier decision in this case and so the
18 objection's overruled. Are there any other objections?

19 MR. LANGHOLTZ: Can I look at my notes, please?

20 THE COURT: Sure.

21 MR. LANGHOLTZ: Thank you. There was one -- yes,
22 Your Honor, with respect to obstruction, our position on that
23 is based on the -- the items cited by probation we believe
24 that the -- that's an ambiguous issue. We don't believe that
25 the Government or probation has shown by the proper standard

1 whether that is really risen to Mr. Williams trying to
2 interfere with the process. So we believe that the nature and
3 purpose of those calls were at best ambiguous and should be
4 resolved with the rule of lenity and not considered
5 obstruction of justice, and the two points should not be added
6 on because of that, Your Honor. And I would just like to
7 continue to look at my notes, please.

8 THE COURT: Mr. Langholtz, I take it you're
9 referring to Paragraph 17 of the third revised report?

10 MR. LANGHOLTZ: Yes, the enhancement, two-point
11 enhancement for obstruction of justice.

12 THE COURT: Is the defendant disputing the accuracy
13 of the quoted language?

14 MR. LANGHOLTZ: No, we're not.

15 THE COURT: So I take it that you're arguing
16 essentially what interpretation or what weight -- what weight
17 and interpretation I should make of it?

18 MR. LANGHOLTZ: Yes, Your Honor. Thank you.

19 THE COURT: Attorney McElwee, do you want to speak
20 to that issue?

21 MS. MCELWEE: Sure. I wasn't prepared to do so
22 because it wasn't a preserved objection, but I'm happy to
23 respond that the Court previously found the defendant did
24 obstruct based on the very same evidence. Nothing has changed
25 in that regard. The Court will recall it was telephone calls,

1 as well as a letter, and that there was certainly pressure
2 being placed on Ms. Hutchinson to change her story and/or
3 not -- not participate in the trial and testify. And so
4 the -- the Government previously argued and the Court
5 previously found that Mr. Williams had obstructed justice.

6 THE COURT: Thank you. Based upon the information
7 contained in Paragraph 18 of the third revised report, I'm
8 satisfied that the Court accurately characterizes the
9 communications by the defendant as an attempted obstruction of
10 justice and therefore the objection's overruled. Are there
11 any other objections?

12 MR. LANGHOLTZ: Yes, Your Honor. Two things. First
13 off, I'd like to address criminal history, and I understand
14 that we've dropped down one category level because of the
15 three points that were removed.

16 THE COURT: Right.

17 MR. LANGHOLTZ: So I believe we're now at IV.

18 THE COURT: Yes.

19 MR. LANGHOLTZ: Okay. So that objection is removed,
20 and we've also asked for a departure with respect to criminal
21 history. And I'm not sure if the Court wants me to address
22 that now as part of the procedural issue or whether that would
23 be more substantive.

24 THE COURT: Is that -- that's your argument that
25 the -- his record overstates the seriousness based upon racial

1 disparities in the Commonwealth of Massachusetts in charging
2 decisions?

3 MR. LANGHOLTZ: Yes, Your Honor. In looking at
4 Mr. Lara's briefing I also notice that Attorney Rioux had done
5 an extensive analysis of cases within this district that are
6 congruent with the argument I made with respect to my client's
7 criminal history in Massachusetts.

8 THE COURT: All right. We'll address that, then.
9 You can argue that further as part of your overall sentencing
10 argument. We'll get to that. Is there anything else, then,
11 that we should address at this stage?

12 MR. LANGHOLTZ: No, Your Honor.

13 THE COURT: Thank you. One moment, please.

14 Regarding the defendant's objection with respect to
15 Paragraph 38 and the criminal history points associated with
16 the conviction -- or I should say associated with the judgment
17 which contained a continued without a finding, a CWOFF, and the
18 argument being that that is an insufficient record to conclude
19 that there was a proper admission and finding of guilt, I
20 conclude that based upon existing First Circuit precedent and
21 in particular the Dobovsky and the Reyes decisions in this
22 case, the Court will not look behind or beyond what we have,
23 and the Court can treat the CWOFF as having been properly
24 arrived at. Therefore, the objection's overruled. I'll
25 simply that add that, of course, also it's well established in

1 the circuit that Massachusetts CWOFF dispositions are scored as
2 criminal history points.

3 All right. I believe that then addresses all the
4 objections that need to be addressed. Based upon my rulings,
5 it results in the following changes to the third revised PSR:

6 With respect to Paragraph 36, there are no points, zero
7 points. That's per U.S. Sentencing Commission Guideline
8 Section 4A1.2(a)(2). That changes Paragraph 40 to a subtotal
9 of seven criminal history points. It changes Paragraph 41 to
10 a total criminal history points of nine and a criminal history
11 category of IV. And turning to the fourth revised PSR, it
12 results in a change to Paragraph 18, specifically what was
13 Criminal History Category V is now Criminal History Category
14 IV.

15 The resulting guideline range is 210 to 262 months. But
16 given the statutory maximum of 240 months, which is 20 years,
17 the resulting range is 210 to 240 months. Attorney McElwee?

18 MS. MCELWEE: We agree, Your Honor.

19 THE COURT: Attorney Langholtz?

20 MR. LANGHOLTZ: Your Honor, we preserve all the
21 objections that we previously made, so we object to the GSR of
22 210 to 240.

23 THE COURT: Do you have a position -- I understand
24 your objections and they are preserved, but based upon my
25 rulings do you agree that the criminal history category is IV

1 and that results in a range of 210 to 262 months, but given
2 the statutory maximum of 240 months, 20 years, that the range
3 is 210 to 240 months based upon my rulings?

4 MR. LANGHOLTZ: Yes, Your Honor.

5 THE COURT: Thank you. All right, with that, then,
6 Attorney McElwee, I'll hear from the Government on the matter
7 of sentence.

8 MS. MCELWEE: Thank you, Judge.

9 THE COURT: Again, counsel, I leave it to your
10 discretion whether to remove your masks, assuming you've been
11 vaccinated.

12 MS. MCELWEE: Regarding the statutory factors that
13 the Court must consider under 18 U.S.C. 3553(a), Judge, I'd
14 like to first address the nature and circumstances of the
15 offense. As the Court well knows, having presided over a
16 trial in this case, this involves a home invasion robbery at
17 the residence of an alleged or known drug dealer in Minot,
18 Maine. Mr. Williams, the defendant, was an original member of
19 the conspiracy. He entered the home that was invaded with a
20 loaded firearm and while inside the home threatened victims
21 and in particular pistol-whipped one of the victims during the
22 robbery. As the Court is also aware, the victims were bound
23 and threatened and they subsequently escaped.

24 At the time Mr. Williams was a convicted felon who was
25 prohibited from possessing a firearm at all. And so as a

1 result he remains now, after the dismissal of the 924(c) as a
2 result of the U.S. versus Davis and remand, the only remaining
3 defendant facing two counts, because he was a prohibited
4 person at the time.

5 With regard to the specific characteristics of this
6 defendant, as the Court just ruled, Mr. Williams has a
7 criminal history category of IV. I recall, Judge, you noting
8 at the time of the original sentence that Mr. Williams'
9 childhood was one of the most disturbing and troubled and
10 tragic ones you have read about, and I would concur with that.
11 And so that was, as the Court will recall, I'm assuming, a
12 substantial reason for the significant departure and
13 variance -- excuse me, variance that the Court imposed the
14 first time. Just in terms of framework, the Court previously
15 found that Mr. Williams was a career offender the first time,
16 which exposed him to a 360 to life range. But despite that,
17 because of his upbringing and lack of youthful guidance, et
18 cetera, you imposed a sentence of 184 months. On the robbery
19 you imposed a sentence of 100 months.

20 We now face a guideline range that is not nearly as
21 significant. And I want to state on the record, although we
22 didn't address it a few moments ago, the Government is not
23 conceding that Mr. Williams is not a career offender. We
24 think that the law is tricky right now, and we believe that
25 there's a possibility he might be, but we don't see any reason

1 in pursuing that. And so we didn't object to the probation
2 finding because the Court's previous sentence was so
3 substantially lower I thought it made sense to not pursue that
4 in this case.

5 The question that I'd like to talk to you about is
6 whether or not Mr. Williams gets any reduction at all the
7 second time around. And I obviously, as you can see from my
8 memo, concluded that he should not and I'd like to argue to
9 you why.

10 All of the 3553(a) factors, with the exception of the
11 personal characteristics of Mr. Williams and his troubled
12 childhood, I suggest argue for a high guideline sentence, if
13 not a variance above the guidelines. Mr. Williams, however,
14 stands out for me, if we're talking about, as I stated before
15 in the sentencing this morning, avoiding unwarranted
16 sentencing disparities.

17 As noted by the Court earlier this morning,
18 Ms. Hutchinson was one of the four. She was the driver and
19 she had no criminal history. She substantially cooperated
20 with the Government, and most importantly she showed
21 extraordinary acceptance of responsibility from day one, while
22 doing so in what was articulated by her to be an abusive
23 relationship with Mr. Williams.

24 Then we had Mr. Douglas, who was the last to join the
25 conspiracy, the last to enter the home, the only one to enter

1 the home without a weapon. And while he did possess a weapon
2 inside the home, he faced only one sentence and that is on the
3 conspiracy to commit armed Hobbs Act robbery. As the Court is
4 well aware and as the defendant here is aware, Mr. Douglas did
5 cooperate with the Government. He too showed extraordinary
6 acceptance of responsibility and that has placed himself at
7 risk by being a cooperator at the Bureau of Prisons.

8 One of the things that stands out for me with regard to
9 Mr. Williams is, at least until now, zero remorse for his
10 behavior, no acceptance of responsibility for his behavior,
11 and the only one to obstruct justice, which is why his
12 guideline range is significantly higher than Mr. Lara's, who
13 was otherwise more similarly situated than the first two
14 defendants I mentioned.

15 I've taken a hard look at Mr. Langholtz's memo, as well
16 as Mr. Rioux's memo on behalf of Mr. Lara, and I went through
17 the third revised presentence report to carefully look at
18 whether there was any racial disparity to address his criminal
19 history category. And I'll be honest, I did see a number of
20 paragraphs in that report that troubled me, a number of
21 paragraphs where it suggested that Mr. Williams had been
22 approached as part of a group of young men, a group of young
23 black men, in the city who maybe were doing something as minor
24 as loitering on school grounds. And it appeared to me that in
25 those interactions it's very possible that race was a factor

1 because he was asked to leave and he did leave, and while
2 leaving maybe one of them said something they shouldn't have
3 to the police officer and then were pulled back. And what
4 could have been a simple dispersing became some engagement and
5 a resisting arrest charge and conviction. But when I looked
6 carefully through it, fortunately none of those troubling
7 paragraphs received criminal history points. So I couldn't
8 say that there was anything to reduce in his criminal history
9 category based on racial inequities. I do agree with the
10 Court's ruling and the probation's change of position on
11 Paragraphs 36 and 37, and so he is I believe solidly and
12 fairly a Criminal History Category IV.

13 So with all that in mind and a guideline range of 210
14 months to 240 months, for all of the appropriate reasons
15 stated at the time of the first sentencing, when Your Honor is
16 always so clear to say this is the sentence I believe is
17 appropriate for this crime, despite many rulings and despite
18 the guidelines, I can't say that there's any reason for a
19 different sentence today. I just can't. I don't see anything
20 here that, like the other defendants who I do think should be
21 treated differently than Mr. Williams, I don't see any reason
22 for you to vary. I believe that with a 360-to-life guideline
23 range you giving him a sentence of 184 months clearly already
24 took into consideration all of the issues that you already
25 addressed with the other defendants, racial inequities, lack

1 of youthful guidance, being raised in an abusive home and not
2 having the support of two parents, and the lack of education
3 that came from his upbringing. All of those things are things
4 that should be considered, and it's clear to me that you did
5 consider those. And so for that reason we believe that 184
6 months is the appropriate sentence for this case and for his
7 conduct and his specific role in this case. And we ask you to
8 impose that.

9 THE COURT: Thank you, Attorney McElwee.

10 MS. MCELWEE: Thank you.

11 MR. LANGHOLTZ: Thank you, Your Honor. I'm
12 comfortable with the mask. I'll just keep on going with that,
13 if the Court can hear me.

14 THE COURT: Yes.

15 MR. LANGHOLTZ: What has Mr. Williams done with his
16 time in prison? He's done extraordinarily well. The
17 Government says he has no remorse, that he has no
18 understanding. That implies that he has no understanding
19 about who he is and what he wants and that he is not a changed
20 person. Prison changes people. They see some terrible
21 things. I think Mr. Williams mentioned some of that in his --
22 in his letter to you, and he certainly filtered some of what
23 he's seen because I -- I saw the initial draft of that -- that
24 letter and what he saw is really horrifying.

25 Here's a gentleman who's been in and out of trouble with

1 the law, a little time here, a little time there, state time.
2 And then all of a sudden -- and he's pretty young -- all of a
3 sudden he's put in a penitentiary, max, with the worst of the
4 worst, killers, murderers, people that are doing life
5 sentences. His eyes opened. He knew he was on the wrong
6 track. He was scared. He got in there. Here's a guy that's
7 in charge of each section. Those sections are divided
8 geographically. He was in the Massachusetts section. He gets
9 in there; there's that one guy; he's called the guy that calls
10 the shots. Generally those are people that are doing life
11 sentences or close to it.

12 And he was with his Massachusetts people, and he was
13 told that he had to stab one of the inmates because that
14 inmate was out of line. Well, that was a wake-up call. He
15 had a big argument with the people that were in charge that
16 told him what he had to do. He said, I'll fight him. I'm not
17 going to stab this guy. I'm starting to think about getting
18 out, seeing my kids. I don't want to do a life term. What
19 happens if he dies? I'll take the consequences. You want to
20 punish me, fine. I'll fight him but I'm not going to stab
21 him. So they get into an altercation. Both of them get put
22 in seg. The individual that they wanted out, that they wanted
23 stabbed, ends up going to a different area because of this
24 fight. So he stands up, does the right thing, quotation
25 marks. That's how he starts. That's about a month into his

1 sentence.

2 He was -- and then funny, fate, Judge Torresen comes
3 down to the prison, sort of like an angel, so to speak. They
4 have this talk. This is about a month after the fight, plus
5 or minus. She talks to the Maine people, the Maine inmates.
6 Not too many Maine people are there. My client has a one on
7 one with the judge. She tells him, hey, look, you got an
8 opportunity here, do what's right, make your life different,
9 really, you can do it. I don't know why, but it -- it sort of
10 clicks. He's probably there about two or three months. He's
11 already had this thing where they told him he had to stab
12 somebody. He's starting to think about his kids. He's
13 maturing. He told me, he said, this is the first time I
14 thought about anything that had worth. Before he went in
15 there he was a nihilist, couldn't care about kids, couldn't
16 care about life, didn't really matter what happened.

17 Things happen in prison. Things happen when you see
18 people hanging themselves, dying there, without family. He
19 talks to people, other black men, all their family has died,
20 they're alone. All they can hope for is to die a peaceful
21 death at the prison. This is groundbreaking material for an
22 individual like him who thinks he's a tough guy. He knows it
23 all. He's been through it. He's been in the streets of
24 Boston. He's rough; he's seen it all. But guess what, he
25 didn't. He got there, he talked to people from his

1 neighborhood, from his area that are doing these long terms,
2 telling him what are you doing. And it starts clicking.

3 So what does he do? He jumps right in. He gets into
4 that program, 250-hour program. Not many people are doing it.
5 He does it. He says, I got to do something, after speaking
6 with the judge. That was a full-time commitment. Take a look
7 at his certificates. I mean, from my perspective, that's
8 extraordinary. I don't -- it's difficult in this milieu
9 because I don't see many people coming from the prison going
10 to be resentenced, but I took a look at Lara's material and
11 Douglas's material for comparison. I didn't see that. I
12 heard about tough times, rehabilitation. Two hundred fifty
13 hours plus 106, if you add them up. But I talked to
14 Mr. Williams today and he said some of them overlap. So maybe
15 he's done close to 300 hours of programming. What can he do
16 right now in the eight years? What can he do right now? He
17 can go out, he's an electrician apprentice right now because
18 of what he did, got licensed in West Virginia as an
19 apprentice. Pays the \$50, if he wants to go back to Boston
20 he's got a trade. Couldn't be a better trade for him. He's a
21 smart guy; everybody knows it. Couldn't pick anything better.

22 So he's trying to prepare himself for a life. He loves
23 his kids. He wants to be out for them. He's got a
24 six-year-old daughter, an eight-year-old son. The daughter
25 was in regular contact with him while he was at Strafford

1 County. However, being in West Virginia, that sort of ceased,
2 but he contacts her I think on a regular basis, once or twice
3 a week. The son, that's a little more difficult. His rights
4 were terminated when he was at Strafford County. Before that
5 the contact was constant. Right around that time when his
6 rights were being terminated, the mother of his son died from
7 a heroin overdose. She was trying to straighten out. She
8 fell back off, she started using again, and she died. She was
9 in a coma. And then the child was moved to another person who
10 had a relationship with the dead mother. And the child's been
11 going back and forth a little bit. I think this is probably
12 the second or third placement. It's not going well. There's
13 abuse, things of that nature. So what he wants to do is he
14 wants to get back out, he wants to start work, probably in the
15 electrician field, electrician work, hire a lawyer, see what
16 he can do to save his son. He wants to get back with his
17 daughter.

18 You know, he's done so much to make himself better. He
19 really was given a chance and lo and behold he took advantage
20 of it. How many people really grasp and take advantage of it?
21 Not many. He did. He's rehabilitating himself. I think the
22 case law, the statutes recognize that. What are you doing,
23 what kind of rehabilitation? Everybody's talking about giving
24 pretrial defendants an opportunity to do rehab, to try to
25 better themselves, get into programs so they can come back

1 into court, show the judge I'm serious about rehabilitation.
2 And the judges, the law is real clear on this, the Court can
3 acknowledge it. It should, it should factor those things into
4 sentencing. And now the Government says, well, that's really
5 inapplicable. I say it's not inapplicable. It is applicable
6 and the Court should take note.

7 I did a little bit of math, and it seems to me that
8 based on Mr. Douglas's sentence there was probably a 26
9 percent decrease from his original sentence. I think
10 Mr. Lara, from what I've just heard today about his sentence,
11 I think it was 32 percent, plus or minus, these are rough
12 estimates. I think if the Court was to factor in some type of
13 percentage for Mr. Williams, and I would suggest it should be
14 more than both of them, maybe 45, I think it's almost coming
15 down to a credit for time served. It's coming closer to a
16 hundred months.

17 If the Court factors in the good time -- the lack of
18 good time that he did presentence, I think we're at -- I think
19 that was 28 months if -- because he was arrested in August of
20 2014, he went to Strafford -- he went -- he was sentenced in
21 December of 2016, so I think that's about 28 months. If good
22 time were factored into that it would be about 32 months. Add
23 on what he's already done at BOP, I think with the 32 factor
24 for the lack of good time I think you're at about 97 months
25 plus or minus. So you're in about the eight-year range.

1 The sentence in this case, if the Court were to follow
2 the math that it abided by in Douglas and Lara and factored in
3 all that good that he's done right now while he's been in
4 prison for eight years, I think a sentence of 97 months to a
5 hundred months is appropriate. If the Court were to factor
6 out the most serious charge, which was the 924(c), you'd be at
7 a hundred months. So there's a whole bunch of reasons to
8 impose a sentence consistent with what we've asked for, Your
9 Honor.

10 Also the Government does acknowledge that in
11 Massachusetts there were problems the way people were handled,
12 and -- black people were handled and Latinx, too, but
13 primarily black. But what's very interesting in the
14 Government's observation was that they noted that a lot of the
15 disparity happens early on, and that's exactly what the report
16 said that was presented to the Supreme Court in Massachusetts,
17 that these early on encounters -- and in the report it
18 referred to the initial charging, those have long-term effects
19 about how cases end up. And I think that's -- I don't think
20 that's a far stretch to say that that's consistent the way
21 some of the cases early on happen on the Mass. criminal
22 history points.

23 So what's interesting in the Government's observation is
24 they make that note that early on that's where a lot of
25 problems are. And that's consistent with the report from

1 Massachusetts. That, along with the observations that
2 Attorney Rioux garnered from statistics within this district,
3 I think bodes well for the Court's -- or at least supports my
4 argument that criminal history in this matter should be
5 brought down to the -- criminal history category should be
6 brought down to III rather than IV, a one-level drop. I think
7 that departure would be reasonable.

8 Based on all those factors, Your Honor, it's reasonable
9 to impose a sentence of time served, and I hope that the Court
10 really weighs Mr. -- Mr. Williams' heartfelt letter. That
11 says a lot, at least in my opinion, and if he is being honest
12 it shows that he is a different person, he is remorseful, and
13 that he has changed. I know that he has quite a bit that he'd
14 like to say to you, so at this time I'd like to end my
15 presentation, thank you.

16 THE COURT: Thank you, counsel.

17 Mr. Williams, as a defendant before the Court who's
18 about to be sentenced, you have a constitutional right to
19 speak to me at this time, but you're not required to speak.
20 It's only if you wish to speak. Do you wish to speak?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. If you would stand now,
23 please, and try and articulate and speak loudly since you have
24 a mask on, thank you.

25 THE DEFENDANT: Thank you. I've been thinking about

1 this, well, coming back in front of this Court for a long time
2 now. And I thought about this situation thousands of times,
3 like what I was going to say, and I still don't -- I'm nervous
4 right now. But, you know, when I did go to prison, like he
5 said, I was scared. I never been in a situation like that
6 before, young. Lifers, killers, you name it, they're there,
7 you know what I'm saying. So -- and you've got to learn
8 quick. And as soon as I get there, there's a situation where
9 I'm forced to be quick on my feet whether I'm going to stab
10 this dude or they're going to stab me. So I chose to fight.
11 I could be standing in front of y'all right now with a life
12 sentence. But I'm not. I mean, I don't know, like that was
13 different, like from -- from that, seeing people die, seeing
14 people kill their selves, like just -- it's different.

15 And then the place I -- it's called misery mountain,
16 like, you get locked down for months at a time, 24 hours for
17 months, come out two times a week for five-minute showers
18 like -- so I really had nothing to do but really think about
19 what I wanted in life, you know. And all that I'm thinking is
20 this -- like I really looked at the bigger picture.

21 And as I started thinking I felt myself maturing, and I
22 wanted more out of life. And I wanted more -- wanted to be
23 able to do something to provide for my kids, give them
24 something I never had. So I went into programming. You know,
25 I started programming, you know, it was kind of tough between

1 the lockdowns and programming but, you know, I still did it.
2 And then they sent -- once you complete the programs they let
3 you pick any MCI you want to go to and stuff like that. So
4 after I did the programming came up -- they moved me but
5 I ain't gonna -- that's probably one of the toughest times of
6 my life, being in that prison, but I can say I made it out. I
7 never asked for a way out of this, never -- nothing. I did a
8 crime; I went and do the time; I'm not complaining. I'm being
9 a man about it, you know what I'm saying? I made my bed; I
10 got to lay in it. It comes with it. But I just really just
11 want a chance. Anything could happen at any moment. I could
12 walk out this door and die. I don't know what's going to
13 happen. I don't know my future. I just want a chance to give
14 my kids a better life, make a life for myself. That's all.
15 Thank you.

16 THE COURT: Thank you, Mr. Williams.

17 Mr. Rioux -- not Mr. Rioux, I'm sorry. Mr. Langholtz,
18 you referred to time served. I don't know what that is in
19 this case. What is your understanding of how much time your
20 client has served that would be credited towards his sentence?

21 MR. LANGHOLTZ: I think it's -- it's around 96
22 months, right around that number.

23 THE COURT: Thank you. Attorney McElwee.

24 MS. MCELWEE: I just want to address something for
25 the purpose of the record, Judge. I apologize but I did not

1 see that this was attached to Mr. Langholtz's memo. So when I
2 heard him say the thing about remorse and the letter and even
3 describing some of it in his memo, I didn't know where that
4 was coming from. I have since received it from Ms. Belanger.
5 So I do want to correct my statement that he hasn't shown any
6 remorse, because up until reading this I didn't believe he
7 had.

8 I also want to note one thing, and it doesn't change my
9 recommendation, only because your previous sentence, again, I
10 really think was so considerably lower than the guideline
11 range, you already took into consideration a significant
12 variance, which was justified. And to look at the numbers
13 today, even -- even the 184 months I'm recommending is still a
14 departure from the guidelines. But I do want to note that I
15 recall vividly at his first sentencing that Mr. Williams said
16 nothing. And so to have him standing here today saying as
17 much as he did is considerable progress.

18 THE COURT: Thank you.

19 MR. LANGHOLTZ: Your Honor, I just want to clarify.
20 I don't want to misstate anything about time, so his initial
21 arrest was in August of 2014. Today we're almost at August of
22 2021. So those are the numbers, Your Honor.

23 THE COURT: All right. First of all, let the record
24 reflect that when Attorney McElwee was speaking she was
25 referring to the -- the document she was referring to --

1 MS. MCELWEE: I apologize.

2 THE COURT: -- was the letter attached as an exhibit
3 to Mr. Langholtz's sentencing memorandum, which I assume
4 there's no objection to that being treated as an exhibit as
5 part of the record of the sentencing?

6 MS. MCELWEE: Certainly no objection from me. I
7 should have said -- instead of this I should have told you
8 what I was holding. I just didn't receive -- I didn't read
9 that letter, I didn't see it. But it was filed as Exhibit 1
10 to Document 484 on the ECF, Judge, on June 1st of 2021.

11 THE COURT: Thank you. Officer Belanger, do you
12 have something you wanted to say?

13 PROBATION OFFICER: I just didn't know, since we
14 were talking about time served, by my rough calculations we're
15 at approximately 82 months currently.

16 THE COURT: Eighty-two?

17 PROBATION OFFICER: Yes.

18 THE COURT: Thank you.

19 MR. LANGHOLTZ: Your Honor, when I said the initial
20 90 and change, that was with good time figured into that, so
21 that's where that number came from.

22 THE COURT: Okay. In case I didn't ask, Mr.
23 Langholtz, anything further on behalf of your client?

24 MR. LANGHOLTZ: No, Your Honor, thank you.

25 THE COURT: All right, thank you. Counsel, I'm

1 going to take a ten-minute recess to reflect on the arguments
2 that have been made, and I'll then be back on the bench to
3 complete the hearing.

4 (A recess was taken from 3:14 p.m. to 3:26 p.m.)

5 THE COURT: In preparation for today's sentencing I
6 did receive memoranda from the lawyers which I've read. We've
7 already noted that there's an exhibit that was attached to Mr.
8 Langholtz's memorandum. It was Mr. Williams's written
9 statement, which I have considered and has been made an
10 exhibit. And of course I have relied upon the revised
11 presentence investigation reports in this case, specifically
12 the fourth and third revised reports as modified by rulings
13 that I've made in this case. I'm adopting those reports as my
14 findings in support of the sentence I'm about to impose.

15 As I discussed earlier, Mr. Williams' total offense
16 level is 34, his criminal history category is IV. That
17 results in a guideline sentencing range of 210 to 240 months,
18 period of supervised release of one to three years, a fine of
19 \$17,500 to \$175,000, and he's ineligible for probation under
20 the guidelines. With respect to the sentence I would note
21 that there is a statutory maximum sentence of 10 years for
22 Count 3, which is possession of a firearm by a felon.

23 Is there any objection to the summary I've just
24 provided, counsel?

25 MS. MCELWEE: No, Your Honor.

1 THE COURT: Mr. Langholtz?

2 MR. LANGHOLTZ: Other than the objections that have
3 already been noted, referenced to procedural issues, Your
4 Honor, no.

5 THE COURT: Thank you. Of course, I've also
6 listened carefully to the arguments the attorneys have made
7 today, as well as to Mr. Williams' allocution made here in
8 open court. I've considered all of that in keeping with the
9 guidelines; and, in addition, I'm considering the other
10 sentencing factors recognized under federal law. These
11 include the nature and circumstances of the crime;
12 Mr. Williams' personal history and characteristics; the need
13 for the sentence to reflect the seriousness of the crime,
14 promote respect for the law, provide just punishment; the need
15 to protect the public from further crimes by the defendant;
16 the need to provide a defendant with educational or vocational
17 training, medical care, or other correctional treatment in the
18 most effective way; and the need to avoid unwarranted
19 sentencing disparities. I have considered all those factors
20 in determining the sentence in this case.

21 Mr. Williams had a jury trial in 2016, after which he
22 was found not guilty of the two charges to which he's -- for
23 which he's being sentenced today -- did I say not guilty? He
24 was found guilty, rather, of the two charges for which he's
25 being sentenced today, guilty of conspiracy to commit Hobbs

1 Act robbery and being a felon in possession of a firearm. He
2 was found not guilty of conspiracy to possess with intent to
3 distribute a controlled substance, and his conviction for use
4 of a firearm during and in relation to a crime of violence has
5 been vacated and no longer exists.

6 I previously sentenced him to an aggregate term of 184
7 months incarceration, followed by concurrent five-year terms
8 of supervised release. As I noted, as a result of the
9 appellate action he's back for resentencing today on two
10 charges, not three.

11 With respect to the criminal conduct which is --
12 underlines the two convictions, this was a Hobbs Act home
13 invasion robbery of a residence in Minot, Maine, that took
14 place in August of 2014. The motive was to obtain drugs and
15 proceeds from drug trafficking believed to be in the
16 residence. It was known to Mr. Williams and his
17 co-conspirators that the person living in the home was himself
18 a drug dealer and that there was reason to believe that there
19 would be drugs and/or money present in the home. During the
20 robbery Mr. Williams was armed with a 9mm semi-automatic
21 pistol which he used repeatedly to threaten the victims at
22 gunpoint, including at one point pressing the gun up against
23 the head of one of the victims. After the robbery he was in
24 possession of a 9mm semi-automatic pistol that was taken from
25 the residence.

1 During the course of the home invasion Mr. Williams and
2 his co-conspirators attempted to tie up the victims with zip
3 ties but were unsuccessful. This robbery would have -- could
4 have ended much worse than it did but for the fact that the --
5 one of the victims broke loose and escaped, and ultimately
6 the -- Mr. Williams and the two co-conspirators in the home
7 also made a run for it and they left.

8 With regard to Count 3, which is the possession of
9 firearm by a felon count, I would note that, as that crime
10 goes it was on the scale of seriousness quite serious, given
11 the fact that he possessed the firearm and used it
12 aggressively against victims in connection with this other
13 crime, the Hobbs Act robbery. As has been stated both in
14 Mr. Lara's proceeding this morning and I believe at least once
15 or twice here today, this afternoon, in connection with
16 Mr. Williams' sentencing, this was a very, very serious,
17 horrific crime. And as I mentioned, but for the fact that a
18 victim broke loose, the consequences of it could have really,
19 truly been much more horrific than they were.

20 Mr. Williams' background is one of really a terrible
21 childhood, marred by neglect, physical abuse, sexual abuse,
22 and at a relatively young age he was left to fend for himself
23 on the streets. And although that childhood does not in any
24 way justify his crimes, certainly helps to explain the path
25 that he was placed on and how he ended up where he was the

1 night of the home invasion. He had a limited work history,
2 and in fact the -- his conviction record reflects that this
3 was his second home invasion that he participated in. He has
4 two other adult assault convictions in addition, one of which
5 involved a handgun and the second of which involved him
6 striking a police officer. And at the time of this offense,
7 he was still under the age, as I recall, of 25. Counsel,
8 you'll correct me if I have that wrong. I believe he was 24.
9 And so he had already amassed a significant conviction record
10 and was involved in some very, very serious criminal conduct
11 involving firearms at the young age of 24.

12 Mr. Williams is a father. He has obtained his GED. His
13 physical and mental health appear to be good, although the
14 records reflect that he was hospitalized in 2012 after
15 sustaining six stab wounds. And he's been incarcerated since
16 2014 in connection with this offense. And so at the time this
17 crime was committed, as I indicated, he already had amassed
18 sufficient convictions to have a criminal history category of
19 IV, had lived on the streets starting in his adolescence, and
20 had a very, very rough life. Fair to say that Mr. Williams at
21 the time of this crime was a very young man simply wildly out
22 of control.

23 The -- this particular crime was -- or at least for
24 sentencing purposes it is important to note that both for
25 purposes of the guidelines and generally as I consider the

1 3553(a) sentencing factors, Mr. Williams' conduct was made
2 worse by the fact that he sought to threaten and intimidate a
3 witness in order to try and cause her not to testify against
4 him. Very, very troubling behavior.

5 Substance use and abuse has certainly been part of
6 Mr. Williams' life, but it's not been cited as a predominant
7 factor in his criminal conduct, and there is evidence he's
8 completed a 90-day drug treatment program while he was
9 previously incarcerated. But at this point in time it does
10 not appear to figure prominently in understanding both his
11 criminal conduct as well as his opportunity for rehabilitation
12 moving forward.

13 Mr. Williams has sought a downward departure in this
14 case, arguing that his criminal record overstates the
15 seriousness or I should say his criminal history overstates
16 the seriousness of what actually his criminal background is or
17 the likelihood that he might commit another crime. He argues
18 that there have been large disparities in sentences and
19 incarceration rates in Massachusetts between whites, blacks,
20 and Latinx, citing a study relating to charging practices.
21 This, of course, is of serious concern to me. I will add,
22 however, that based upon the information that I have with
23 respect to that study and the information I have with respect
24 to Mr. Williams' prior convictions in Massachusetts, I don't
25 find a basis to conclude that he was subject to overcharging,

1 whether for racial or other reasons. I'm not discounting the
2 possibility that that occurred. I just don't find that on the
3 record in front of me I can conclude that it did occur.

4 Mr. Williams has also today endorsed the argument that
5 Mr. Lara's attorney made earlier today with respect to racial
6 disparities in sentencing in the District of Maine. Mr. Lara
7 presented sentencing statistics which suggest a significant
8 disparity in sentences as between white and black criminal
9 defendants in the district. Now, a significant portion of
10 those statistics do not account for the defendant's criminal
11 history or any other variant factor. And so I don't feel that
12 I could reasonably form a judgment as to whether the
13 information as to that cohort of defendants is in any way
14 statistically significant or reasonably permits one to draw
15 the conclusion that there is unwarranted sentencing
16 disparities and has been in the recent past based upon race.

17 The statistics presented in connection with disparity
18 between sentences for white and black defendants convicted of
19 both drug trafficking but with a Criminal History Category
20 III, which of course is now more focused, show that on average
21 white defendants received a sentence of 56 months and on
22 average black defendants received a sentence of 81 months, and
23 that truly is disparate and is of tremendous concern. But
24 this is another instance where absent some additional
25 information about those cases examined, I'm in the dark as to

1 whether or not there's any statistical significance to that
2 disparity. We need more information before that type of a
3 conclusion can be drawn.

4 And, finally, the last category related to robbery cases
5 involving defendants with a criminal history category of III,
6 which of course is more now focused than the other two groups
7 of statistics, but that particular group involved a cohort
8 consisting of only a total of seven defendants, five white
9 defendants, two black defendants, which, and without any
10 additional information, again is properly considered to be not
11 sufficient information upon which me, a judge, can draw a
12 conclusion as to whether it has statistical significance
13 without the benefit of additional information.

14 As I said this morning, the disparity argument is a
15 serious one which is worthy of further study, no question.
16 But without more study and more data, it's not one on which I
17 can base a sentencing conclusion or a sentencing decision. In
18 addition, as I said this morning, I, like many judges, have
19 received training in implicit bias and how that affects
20 judging, and as a result when I exercise my judicial authority
21 I make it a point to be very deliberate about considering the
22 role that a possible implicit bias by me might have in the
23 exercise of my judgment. This, of course, is particularly
24 important in the area of sentencing defendants. And although
25 I recognize that, no matter how deliberate I might be, it's no

1 guarantee that my sentencing decisions will be completely free
2 of implicit bias, but the approach does ensure that it's at
3 the forefront of my thinking in these cases and is being
4 considered by me. And I am certainly considering it today in
5 resentencing Mr. Williams.

6 Mr. Williams also seeks a variance from the guidelines
7 based upon the efforts he's undertaken to rehabilitate himself
8 in prison, which he argues reflects significant growth on his
9 part and also reflects that he is a lower risk of reoffending
10 once he completes his prison term than he might have been when
11 he was sentenced previously in this case. And, interestingly,
12 he points to a visit to the prison by my colleague, Justice
13 Torresen, as providing a moment of insight which caused him to
14 rethink his ways.

15 Now, I have no way of judging whether that's true or
16 not, but I will point out that the programming that he's
17 completed all started in 2019. He's been incarcerated, of
18 course, for several years prior to that time, but the 18
19 self-improvement and educational programs he's completed while
20 in BOP custody and most recently the inside-outside DAP
21 program and the Bounce Back program, none of that began until
22 2019 and seems to coincide with Judge Torresen's visit.

23 Mr. Williams by my calculation was 24 years old when he
24 committed this crime after the most horrific, tough childhood
25 that one can imagine and he's now older. And so it would be

1 consistent with the idea that the brain matures, impulse
2 control really doesn't reach a full level of maturity until
3 people hit their middle 20s. It would appear as if
4 Mr. Williams' experience is consistent with that common
5 knowledge.

6 Just as important as what he has done while incarcerated
7 in terms of the completion of programs is what he has not
8 done, and that is he does not present himself today with a
9 history of disciplinary infractions or new criminal conduct
10 while incarcerated that is so significant that it would cause
11 me to believe or disbelieve his assertion that he has matured
12 and now finds value in trying to improve his life. Therefore,
13 I'm accepting his representations as sincere, and it seems to
14 me it is an appropriate reason to provide a variance in this
15 case.

16 In addition, as was true with Mr. Lara this morning, in
17 considering the level of variance I gave earlier -- the last
18 time I sentenced the defendant, he does present today with one
19 fewer count of conviction. And so the posture of the case is
20 different.

21 This morning I sentenced Mr. Lara to a period of 126
22 months. With respect to the two other co-conspirators in this
23 case, one received a sentence of probation and the other
24 received a sentence, as I recall, of approximately 80 months.
25 I would like to just now address the reason for the disparity

1 in sentences in these cases.

2 As to the defendant Ms. Hutchinson, who received a
3 probated sentence, I found then that she was very much under
4 the influence of Mr. Williams, her boyfriend at the time. Her
5 role in the crime itself was as the driver of the vehicle.
6 She was not present in the house where the most serious
7 offense conduct took place. She took responsibility for the
8 crime almost immediately, and she provided substantial
9 cooperation to the Government, contributing to Mr. Williams'
10 and Mr. Lara's convictions.

11 As for Mr. Douglas, he was, like Mr. Williams, a
12 principal co-conspirator in the case and in the actions that
13 took place in the house. He, however, accepted responsibility
14 for the offense immediately or soon, rather, and he provided
15 substantial cooperation again also contributing to
16 Mr. Williams' and Mr. Lara's convictions. And given his
17 acceptance of responsibility, his cooperation, and judgments
18 that I drew about his risk of reoffending based upon his
19 conduct, I found then and I find today that a substantial
20 disparity between his sentence and those of Mr. Williams and
21 Lara is justified.

22 With respect to Mr. Lara, I conclude that Mr. Williams
23 is -- should not receive as great a variance as Mr. Lara did
24 for two reasons. First is that Mr. Williams was a felon in
25 possession of a firearm when he -- which he used at the time

1 that he committed this robbery. He has this additional
2 conviction of being a felon in possession of a firearm. And,
3 also, following his arrest Mr. Williams obstructed justice for
4 the reasons I've already explained. And so for those reasons,
5 I've concluded that a downward variance is supported here
6 and -- but not to the extent that I granted with respect to
7 Mr. Lara.

8 Finally, I'll note that I think the Government
9 justifiably points out that I've already varied once in this
10 case based upon a much higher level under the guidelines, a
11 much greater sentencing range under the guidelines, than is
12 before me today. I'll simply note in that regard that that
13 was then and this is now. Mr. Williams is -- we've had the
14 benefit, rather, of several years now of Mr. Williams being
15 incarcerated, and that rightfully is taken into consideration
16 since I am sentencing him today, not the man that he was the
17 last time I sentenced him.

18 I would also note that, of course, the Court might
19 choose to vary from the guidelines -- a downward variance from
20 the guidelines, but that doesn't mean that the guidelines
21 themselves that the Court is considering doesn't influence the
22 Court, doesn't influence the amount of variance deemed
23 appropriate. And here today I am operating with a much lower
24 guideline range than I was the last time I sentenced
25 Mr. Williams.

1 Counsel, before I complete my analysis, then, is there
2 any aspect of your arguments I haven't addressed that needs to
3 be addressed?

4 MS. MCELWEE: No, thank you, Your Honor.

5 MR. LANGHOLTZ: No, Your Honor, thank you.

6 THE COURT: Mr. Williams, if you'll stand now,
7 please. In addition to the various factors I've cited, I'm
8 also required to consider what the purposes of the sentence
9 are, and it seems to me that, of course, here we've got a very
10 serious crime which deserves a very serious sentence. It
11 should reflect the seriousness of the criminal conduct and
12 also provide you with adequate deterrence moving forward and
13 provide protection to the public. But I do find that the
14 length of the sentence should be significantly less than what
15 was previously imposed, taking into consideration the various
16 things I've already noted, because although deterrence and
17 protection of the public remain a primary concern for me and
18 are primary purposes of the sentence, those concerns are
19 somewhat reduced given your track record.

20 For all those reasons I've concluded that a fair and
21 just sentence which is sufficient to achieve its purposes but
22 not greater is as follows: On Count 2, the Hobbs Act robbery
23 charge, I'm sentencing you to a total term of 140 months; and
24 on Count 3, felon in possession charge, I am sentencing you to
25 a concurrent term of 60 months. I'm ordering that you be on

1 supervised release for a period of three years following the
2 completion of your sentence, subject to all the conditions of
3 supervised release that were previously ordered.

4 And, Mr. Langholtz, is there any objection at this time
5 to any of those conditions?

6 MR. LANGHOLTZ: No, Your Honor.

7 THE COURT: Thank you. I'm imposing a special
8 assessment of \$200, \$100 on each count. I'm not imposing a
9 fine because I find that Mr. Williams does not have the means
10 with which to pay a fine.

11 And finally, counsel, is there any aspect of the
12 sentence I haven't addressed that needs to be addressed?

13 MS. MCELWEE: No, thank you, Your Honor.

14 MR. LANGHOLTZ: No, Your Honor, thank you.

15 PROBATION OFFICER: Your Honor, I believe you said
16 three years of supervised release. Do you intend that to be
17 three years on each count to run concurrently?

18 THE COURT: Thank you. To be complete, supervised
19 release is three years on each count to run concurrently.

20 Mr. Williams, as I believe you know, you do have the
21 right to appeal, certainly from the sentence I've imposed and
22 perhaps to some extent your conviction, although you've
23 already exercised that right with respect to the conviction.
24 But to appeal any aspect of the sentence or your conviction,
25 you have to file a written notice of appeal within 14 days of

1 today or else you'll have waived that right. Do you
2 understand?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: If you can't afford to file the appeal,
5 you have the right to request the clerk to file it without
6 charge to you; but, again, your written request has to be
7 submitted and received within 14 days. Do you understand?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Mr. Williams is committed to
10 the custody of the U.S. Marshal for the District of Maine in
11 furtherance of the sentence. Mr. Williams, this is -- you
12 still have a significant prison time ahead of you; it's
13 greatly reduced from what it was. But you've earned my
14 confidence that you're going to use that term -- the rest of
15 that term wisely and safely. You've cited the fact that
16 you're a father and that you care about your kids. I hope
17 that you'll be inspired by the fact that what you do during
18 the remaining time that you're in prison matters; it matters
19 not just to you but it matters to them. You have the
20 potential to demonstrate that people can change, people can
21 grow, and people can redeem themselves. And that will be a
22 powerful lesson for your child. And so I hope that you'll
23 view this -- the remaining term of your incarceration as a
24 positive opportunity to impress your children as to -- as in
25 the -- as in the way that you have impressed me to a certain

1 degree today.

2 You've had a very tough ride in your life, but you're
3 still going to come out a relatively young person. You have a
4 lot of life ahead of you; you have a lot good to live for. So
5 I know that I speak for everyone that's here today in saying
6 that our hope for you is that down the road you'll be able to
7 look back on this, put this all behind you, see that you did
8 that, and be proud of what you've accomplished. That's my
9 hope for you.

10 THE DEFENDANT: Thank you.

11 THE COURT: Good luck to you. Counsel, thank you
12 for your assistance. Officer Belanger, thank you for your
13 assistance in this case. Court is now adjourned.

14 (Time noted: 3:55 p.m.)

15 **C E R T I F I C A T I O N**

16 I, Lori D. Dunbar, Registered Merit Reporter, Certified
17 Realtime Reporter, and Official Court Reporter for the United
18 States District Court, District of Maine, certify that the
19 foregoing is a correct transcript from the record of
20 proceedings in the above-entitled matter.

21 Dated: August 17, 2021

22 /s/ Lori D. Dunbar

23 Official Court Reporter
24
25